

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Marty J. and Danielle D. Orr,
Petitioners-Appellants,

v.

Dallas County Board of Review,
Respondent-Appellee.

ORDER

**Docket No. 09-25-1120
Parcel No. 03-02-100-001**

On July 7, 2010, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioners-Appellants Marty J. and Danielle D. Orr were self-represented and submitted evidence in support of their petition. The Dallas County Board of Review designated County Attorney Wayne Reisetter as its legal representative. County Assessor Steve Helm appeared on its behalf at hearing and submitted evidence in support of its decision. The Appeal Board now having reviewed the record, heard the testimony, and being fully advised, finds:

Findings of Fact

Marty J. and Danielle D. Orr, owners of property located at 12108 Quinlan Avenue, Woodward, Iowa, appeal from the Dallas County Board of Review decision reassessing their property. The real estate was classified residential for the January 1, 2009, assessment and valued at \$214,290; representing \$31,510 in land value and \$182,780 in improvement value. The Orrs protested to the Board of Review on the grounds that the property is not equitably assessed under Iowa Code section 441.37(1)(a) and that there had been a downward change in value under sections 441.37(1) and 441.35(3). In response to the protest, the Board of Review notified Orrs the January 1, 2009, assessment would not change, stating, "property owner/agent failed to substantiate burden of proof."

Orrs then appealed to this Board on the grounds that the property is not equitably assessed and that there had been a downward change in value under Iowa Code sections 441.37(1) and 441.35(3). We note Orrs' claim of downward change in value in an assessment year is akin to a challenge on market value. *See Dedham Co-op Ass'n. v. Carroll County Bd. of Review*, 2006 WL 1750300 (Iowa Ct. App. 2006). The Orrs' protest to the Board of Review also claimed downward change. For these reasons, we consider the claims of equity and over-assessment. Orrs did not state the value they seek for relief.

The subject property is an 1104 square-foot, two-story frame dwelling built in 1977 with a 484 square-foot attached garage. The property also has a 72 x 60 foot metal machine shed built in 2008. The site consists of 4.50 acres.

The Orrs submitted eight examples of surrounding land assessments that, in their opinion, are comparable to their property; four small acreages that are classified as agricultural, and seven whose assessments have decreased. We note that agricultural land is valued differently than residential land, and therefore, the assessments are not comparable. Orr believes the property located at 12492 Quinlan Avenue is the most comparable to the subject property. That property is assessed at \$2797 an acre.

When questioned by Assessor Helm, Orr testified that he purchased the property in 2007 for \$240,000 and has since placed a machine shed on the site at a cash value of \$40,000.

The Orrs do not place a total value on the subject property. They only contest that the land is assessed too high as compared to other like property. Mr. Orr testified that after they received their notice from the Board of Review, they contacted the assessor's office to gather information on how their land value was determined and what the guidelines were for others being assessed as agricultural realty. Orrs received resistance from the assessor's office, and were told any information they sought would have to be requested through county attorney's office. Orrs were afraid that they would have to contact an attorney. Because of these circumstances, the Orr's filed their appeal with this Board. We

note the county assessor's office is a public office that is required to follow the public records requirements of Iowa Code Chapter 22. Iowa Code § 22.1. Additionally, the Iowa Department of Revenue has instructed assessors on its position regarding the status of records in assessors' offices in a policy statement. IOWA DEPARTMENT OF REVENUE, DUTIES AND RESPONSIBILITIES OF IOWA ASSESSORS (2008), http://www.iowa.gov/tax/locgov/prop_assessor_duties.pdf. It is concerning that an employee of the assessors office would refuse to provide public information to any taxpayer upon request.

The Board of Review's information was included in the certified record. The Board of Review did not have any witnesses or evidence to support the assessment. The data submitted by the Orrs regarding their equity claim was not adjusted to the subject property for size or location and may not be comparable to the subject property. Further, the Orrs did not provide reliable evidence to support what the subject property value should be based on sales of comparable properties or using other methods. Therefore, we find there is insufficient evidence to support the claim that the subject property is not equitable or over-assessed.

Conclusions of Law

The Appeal Board based its decision on the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment*

Appeal Bd., 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sales prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shriver*, 257 Iowa 575, 133 N.W.2d 709 (1965). The six criteria include evidence showing

"(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination."

Id. at 579-580. The gist of this test is ratio difference between assessment and market value, even though Iowa law now requires assessments to be 100% of market value. § 441.21(1). The Orrs did not provide sufficient evidence using either equity method to show the subject property was inequitably assessed.

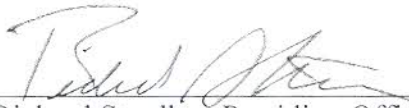
In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277

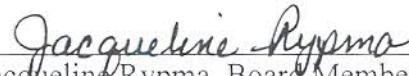
(Iowa 1995). Orrs did not provide this Board with persuasive evidence that the current assessed valuation is more than authorized by law.

We, therefore, affirm the assessment of the subject property as determined by the Dallas County Board of Review as of January 1, 2009.

THE APPEAL BOARD ORDERS that the assessment of the Orr property, located at 12108 Quinlan Avenue, Woodward, Iowa, as of January 1, 2009, set by the Dallas County Board of Review, is affirmed.

Dated this 2 day of September, 2010.


Richard Stradley, Presiding Officer


Jacqueline Rypma, Board Member

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>9-2</u> , 2010	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	